

1 HOUSE BILL 374

2 **48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO TAXATION; AUTHORIZING A MUNICIPAL HIGHER EDUCATION
12 FACILITIES GROSS RECEIPTS TAX; AUTHORIZING ISSUANCE OF
13 MUNICIPAL REVENUE BONDS.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 Section 1. A new section of the Municipal Local Option
17 Gross Receipts Taxes Act is enacted to read:

18 "[NEW MATERIAL] MUNICIPAL HIGHER EDUCATION FACILITIES
19 GROSS RECEIPTS TAX.--

20 A. The majority of the members of the governing
21 body of an eligible municipality may impose by ordinance an
22 excise tax at a rate not to exceed one-fourth of one percent of
23 the gross receipts of a person engaging in business in the
24 municipality for the privilege of engaging in business. The
25 tax may be imposed in increments of one-sixteenth of one

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1 percent not to exceed an aggregate rate of one-fourth of one
2 percent. The tax shall be imposed for a period of not more
3 than twenty years from the effective date of the ordinance
4 imposing the tax.

5 B. The tax imposed pursuant to this section may be
6 referred to as the "municipal higher education facilities gross
7 receipts tax".

8 C. The governing body, at the time of enacting an
9 ordinance imposing a rate of tax authorized in Subsection A of
10 this section, shall dedicate the revenue only for:

11 (1) acquisition, construction, renovation or
12 improvement of facilities of a four-year post-secondary public
13 educational institution located in the municipality and
14 acquisition of or improvements to land for those facilities; or

15 (2) payment of municipal higher education
16 facilities gross receipts tax revenue bonds issued pursuant to
17 Chapter 3, Article 31 NMSA 1978.

18 D. An ordinance imposing any increment of the
19 municipal higher education facilities gross receipts tax shall
20 not go into effect until after an election is held and a
21 majority of the voters of the municipality voting in the
22 election votes in favor of imposing the tax. The governing
23 body shall adopt a resolution calling for an election on the
24 question of imposing the tax within seventy-five days of the
25 date the ordinance is adopted. The question shall be submitted

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1 to the voters of the municipality as a separate question at a
2 regular municipal election or at a special election called for
3 that purpose by the governing body. A special municipal
4 election shall be called, conducted and canvassed as provided
5 in the Municipal Election Code. If a majority of the voters
6 voting on the question approves the ordinance imposing the
7 municipal higher education facilities gross receipts tax, the
8 ordinance shall become effective in accordance with the
9 provisions of the Municipal Local Option Gross Receipts Taxes
10 Act. If the question of imposing the municipal higher
11 education facilities gross receipts tax fails, the governing
12 body shall not again propose the imposition of any increment of
13 the tax for a period of one year from the date of the election.

14 E. For the purposes of this section, "eligible
15 municipality" means a municipality that is located in a class B
16 county and that has a population greater than fifty thousand
17 according to the most recent federal decennial census."

18 Section 2. Section 3-31-1 NMSA 1978 (being Laws 1973,
19 Chapter 395, Section 3, as amended) is amended to read:

20 "3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF
21 REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any
22 other law and constitutional home rule powers authorizing a
23 municipality to issue revenue bonds, a municipality may issue
24 revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for
25 the purposes specified in this section. The term "pledged

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1 revenues", as used in Chapter 3, Article 31 NMSA 1978, means
2 the revenues, net income or net revenues authorized to be
3 pledged to the payment of particular revenue bonds as
4 specifically provided in Subsections A through [±] J of this
5 section.

6 A. Utility revenue bonds may be issued for
7 acquiring, extending, enlarging, bettering, repairing or
8 otherwise improving a municipal utility or for any combination
9 of the foregoing purposes. The municipality may pledge
10 irrevocably any or all of the net revenues from the operation
11 of the municipal utility or of any one or more of other such
12 municipal utilities for payment of the interest on and
13 principal of the revenue bonds. These bonds are sometimes
14 referred to in Chapter 3, Article 31 NMSA 1978 as "utility
15 revenue bonds" or "utility bonds".

16 B. Joint utility revenue bonds may be issued for
17 acquiring, extending, enlarging, bettering, repairing or
18 otherwise improving joint water facilities, sewer facilities,
19 gas facilities or electric facilities or for any combination of
20 the foregoing purposes. The municipality may pledge
21 irrevocably any or all of the net revenues from the operation
22 of these municipal utilities for the payment of the interest on
23 and principal of the bonds. These bonds are sometimes referred
24 to in Chapter 3, Article 31 NMSA 1978 as "joint utility revenue
25 bonds" or "joint utility bonds".

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1 C. For the purposes of this subsection, "gross
2 receipts tax revenue bonds" means gross receipts tax revenue
3 bonds or sales tax revenue bonds. Gross receipts tax revenue
4 bonds may be issued for any one or more of the following
5 purposes:

6 (1) constructing, purchasing, furnishing,
7 equipping, rehabilitating, making additions to or making
8 improvements to one or more public buildings or purchasing or
9 improving any ground relating thereto, including but not
10 necessarily limited to acquiring and improving parking lots, or
11 any combination of the foregoing;

12 (2) acquiring or improving municipal or public
13 parking lots, structures or facilities or any combination of
14 the foregoing;

15 (3) purchasing, acquiring or rehabilitating
16 firefighting equipment or any combination of the foregoing;

17 (4) acquiring, extending, enlarging,
18 bettering, repairing, otherwise improving or maintaining storm
19 sewers and other drainage improvements, sanitary sewers, sewage
20 treatment plants or water utilities, including but not
21 necessarily limited to the acquisition of rights of way and
22 water and water rights, or any combination of the foregoing;

23 (5) reconstructing, resurfacing, maintaining,
24 repairing or otherwise improving existing alleys, streets,
25 roads or bridges or any combination of the foregoing or laying

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1 off, opening, constructing or otherwise acquiring new alleys,
2 streets, roads or bridges or any combination of the foregoing;
3 provided that any of the foregoing improvements may include but
4 are not limited to the acquisition of rights of way;

5 (6) purchasing, acquiring, constructing,
6 making additions to, enlarging, bettering, extending or
7 equipping airport facilities or any combination of the
8 foregoing, including without limitation the acquisition of
9 land, easements or rights of way therefor;

10 (7) purchasing or otherwise acquiring or
11 clearing land or for purchasing, otherwise acquiring and
12 beautifying land for open space;

13 (8) acquiring, constructing, purchasing,
14 equipping, furnishing, making additions to, renovating,
15 rehabilitating, beautifying or otherwise improving public
16 parks, public recreational buildings or other public
17 recreational facilities or any combination of the foregoing;

18 (9) acquiring, constructing, extending,
19 enlarging, bettering, repairing, otherwise improving or
20 maintaining solid waste disposal equipment, equipment for
21 operation and maintenance of sanitary landfills, sanitary
22 landfills, solid waste facilities or any combination of the
23 foregoing; and

24 (10) acquiring, constructing, extending,
25 bettering, repairing or otherwise improving a public transit

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1 system or regional transit systems or facilities.

2 The municipality may pledge irrevocably any or all of the
3 gross receipts tax revenue received by the municipality
4 pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the
5 payment of the interest on and principal of the gross receipts
6 tax revenue bonds for any of the purposes authorized in this
7 section or for specific purposes or for any area of municipal
8 government services, including but not limited to those
9 specified in Subsection C of Section 7-19D-9 NMSA 1978, or for
10 public purposes authorized by municipalities having
11 constitutional home rule charters. A law that imposes or
12 authorizes the imposition of a municipal gross receipts tax or
13 that affects the municipal gross receipts tax, or a law
14 supplemental thereto or otherwise appertaining thereto, shall
15 not be repealed or amended or otherwise directly or indirectly
16 modified in such a manner as to impair adversely any
17 outstanding revenue bonds that may be secured by a pledge of
18 such municipal gross receipts tax unless the outstanding
19 revenue bonds have been discharged in full or provision has
20 been fully made therefor.

21 Revenues in excess of the annual principal and interest
22 due on gross receipts tax revenue bonds secured by a pledge of
23 gross receipts tax revenue may be accumulated in a debt service
24 reserve account. The governing body of the municipality may
25 appoint a commercial bank trust department to act as trustee of

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1 the gross receipts tax revenue and to administer the payment of
2 principal of and interest on the bonds.

3 D. As used in this section, the term "public
4 building" includes but is not limited to fire stations, police
5 buildings, municipal jails, regional jails or juvenile
6 detention facilities, libraries, museums, auditoriums,
7 convention halls, hospitals, buildings for administrative
8 offices, city halls and garages for housing, repairing and
9 maintaining city vehicles and equipment. As used in Chapter 3,
10 Article 31 NMSA 1978, the term "gross receipts tax revenue
11 bonds" means the bonds authorized in Subsection C of this
12 section, and the term "gross receipts tax revenue" means the
13 amount of money distributed to the municipality as authorized
14 by Section 7-1-6.4 NMSA 1978 or the amount of money transferred
15 to the municipality as authorized by Section 7-1-6.12 NMSA 1978
16 for any municipal gross receipts tax imposed pursuant to the
17 Municipal Local Option Gross Receipts Taxes Act. As used in
18 Chapter 3, Article 31 NMSA 1978, the term "bond" means any
19 obligation of a municipality issued under Chapter 3, Article 31
20 NMSA 1978, whether designated as a bond, note, loan, warrant,
21 debenture, lease-purchase agreement or other instrument
22 evidencing an obligation of a municipality to make payments.

23 E. Gasoline tax revenue bonds may be issued for
24 laying off, opening, constructing, reconstructing, resurfacing,
25 maintaining, acquiring rights of way, repairing and otherwise

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1 improving municipal buildings, alleys, streets, public roads
2 and bridges or any combination of the foregoing purposes. The
3 municipality may pledge irrevocably any or all of the gasoline
4 tax revenue received by the municipality to the payment of the
5 interest on and principal of the gasoline tax revenue bonds.
6 As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax
7 revenue bonds" means the bonds authorized in this subsection,
8 and "gasoline tax revenue" means all or portions of the amounts
9 of tax revenues distributed to municipalities pursuant to
10 Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time
11 amended and supplemented.

12 F. Project revenue bonds may be issued for
13 acquiring, extending, enlarging, bettering, repairing,
14 improving, constructing, purchasing, furnishing, equipping and
15 rehabilitating any revenue-producing project, including, where
16 applicable, purchasing, otherwise acquiring or improving the
17 ground therefor, including but not necessarily limited to
18 acquiring and improving parking lots, or for any combination of
19 the foregoing purposes. The municipality may pledge
20 irrevocably any or all of the net revenues from the operation
21 of the revenue-producing project for which the particular
22 project revenue bonds are issued to the payment of the interest
23 on and principal of the project revenue bonds. The net
24 revenues of any revenue-producing project may not be pledged to
25 the project revenue bonds issued for a revenue-producing

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1 project that clearly is unrelated in nature; but nothing in
2 this subsection shall prevent the pledge to such project
3 revenue bonds of any revenues received from existing, future or
4 disconnected facilities and equipment that are related to and
5 that may constitute a part of the particular revenue-producing
6 project. A general determination by the governing body that
7 any facilities or equipment is reasonably related to and
8 constitutes a part of a specified revenue-producing project
9 shall be conclusive if set forth in the proceedings authorizing
10 the project revenue bonds. As used in Chapter 3, Article 31
11 NMSA 1978:

12 (1) "project revenue bonds" means the bonds
13 authorized in this subsection; and

14 (2) "project revenues" means the net revenues
15 of revenue-producing projects that may be pledged to project
16 revenue bonds pursuant to this subsection.

17 G. Fire district revenue bonds may be issued for
18 acquiring, extending, enlarging, bettering, repairing,
19 improving, constructing, purchasing, furnishing, equipping and
20 rehabilitating any fire district project, including where
21 applicable purchasing, otherwise acquiring or improving the
22 ground therefor, or for any combination of the foregoing
23 purposes. The municipality may pledge irrevocably any or all
24 of the revenues received by the fire district from the fire
25 protection fund as provided in the Fire Protection Fund Law and
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1 any or all of the revenues provided for the operation of the
2 fire district project for which the particular bonds are issued
3 to the payment of the interest on and principal of the bonds.
4 The revenues of any fire district project shall not be pledged
5 to the bonds issued for a fire district project that clearly is
6 unrelated in its purpose; but nothing in this section prevents
7 the pledge to such bonds of any revenues received from
8 existing, future or disconnected facilities and equipment that
9 are related to and that may constitute a part of the particular
10 fire district project. A general determination by the
11 governing body of the municipality that any facilities or
12 equipment is reasonably related to and constitutes a part of a
13 specified fire district project shall be conclusive if set
14 forth in the proceedings authorizing the fire district bonds.

15 H. Law enforcement protection revenue bonds may be
16 issued for the repair and purchase of law enforcement apparatus
17 and equipment that meet nationally recognized standards. The
18 municipality may pledge irrevocably any or all of the revenues
19 received by the municipality from the law enforcement
20 protection fund distributions pursuant to the Law Enforcement
21 Protection Fund Act to the payment of the interest on and
22 principal of the law enforcement protection revenue bonds.

23 I. Economic development gross receipts tax revenue
24 bonds may be issued for the purpose of furthering economic
25 development projects as defined in the Local Economic

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1 Development Act. The municipality may pledge irrevocably any
2 or all of the revenue received from the municipal
3 infrastructure gross receipts tax to the payment of the
4 interest on and principal of the economic development gross
5 receipts tax revenue bonds for any of the purposes authorized
6 in this subsection. A law that imposes or authorizes the
7 imposition of a municipal infrastructure gross receipts tax or
8 that affects the municipal infrastructure gross receipts tax,
9 or a law supplemental to or otherwise pertaining to the tax,
10 shall not be repealed or amended or otherwise directly or
11 indirectly modified in such a manner as to impair adversely any
12 outstanding revenue bonds that may be secured by a pledge of
13 the municipal infrastructure gross receipts tax unless the
14 outstanding revenue bonds have been discharged in full or
15 provision has been fully made for their discharge. As used in
16 Chapter 3, Article 31 NMSA 1978, "economic development gross
17 receipts tax revenue bonds" means the bonds authorized in this
18 subsection, and "municipal infrastructure gross receipts tax
19 revenue" means any or all of the revenue from the municipal
20 infrastructure gross receipts tax transferred to the
21 municipality pursuant to Section 7-1-6.12 NMSA 1978.

22 J. Municipal higher education facilities gross
23 receipts tax revenue bonds may be issued for the purpose of
24 acquisition, construction, renovation or improvement of
25 facilities of a four-year post-secondary public educational

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1 institution located in the municipality and acquisition of or
2 improvements to land for those facilities. The municipality
3 may pledge irrevocably any or all of the revenue received from
4 the municipal higher education facilities gross receipts tax to
5 the payment of the interest on and principal of the municipal
6 higher education facilities gross receipts tax revenue bonds.
7 A law that imposes or authorizes the imposition of a municipal
8 higher education facilities gross receipts tax or that affects
9 the municipal higher education facilities gross receipts tax,
10 or a law supplemental to or otherwise pertaining to the tax,
11 shall not be repealed or amended or otherwise directly or
12 indirectly modified in such a manner as to impair adversely any
13 outstanding revenue bonds that may be secured by a pledge of
14 the municipal higher education facilities gross receipts tax
15 unless the outstanding revenue bonds have been discharged in
16 full or provision has been fully made for their discharge. As
17 used in Chapter 3, Article 31 NMSA 1978, "municipal higher
18 education facilities gross receipts tax revenue bonds" means
19 the bonds authorized in this subsection and "municipal higher
20 education facilities gross receipts tax revenue" means any or
21 all of the revenue from the municipal higher education
22 facilities gross receipts tax transferred to the municipality
23 pursuant to Section 7-1-6.12 NMSA 1978.

24 [~~J.~~] K. Except for the purpose of refunding
25 previous revenue bond issues, no municipality may sell revenue
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1 bonds payable from pledged revenues after the expiration of two
2 years from the date of the ordinance authorizing the issuance
3 of the bonds or, for bonds to be issued and sold to the New
4 Mexico finance authority as authorized in Subsection C of
5 Section 3-31-4 NMSA 1978, after the expiration of two years
6 from the date of the resolution authorizing the issuance of the
7 bonds. However, any period of time during which a particular
8 revenue bond issue is in litigation shall not be counted in
9 determining the expiration date of that issue."

10 Section 3. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2007.